

DEC 19 2005

PATENT
Attorney Docket No. 101.0084-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Confirmation No.:	8299
Gary K. Michelson)	Group Art Unit:	3738
Serial No.: 09/921,851)	Examiner:	Bruce Snow
Filed: August 3, 2001)		
For: METHOD FOR FORMING A)		
SPINAL IMPLANT SURFACE)		
CONFIGURATION)		

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

TERMINAL DISCLAIMER

Petitioner ("assignee") SDGI Holdings, Inc., duly organized under the laws of the State of Delaware, and whose post office address is 300 Delaware Avenue, Suite 508, Wilmington, Delaware 19801, represents that it is the only assignee of the entire right, title and interest in and to the above-identified application, Application Serial No. 09/921,851, filed August 3, 2001 for METHOD FOR FORMING A SPINAL IMPLANT SURFACE CONFIGURATION in the name of Gary Karlin Michelson as indicated by the assignment duly recorded in the United States Patent and Trademark Office at Reel 016195, Frame 0282; and is the only assignee of the entire right, title and interest in and to Application Serial No. 10/808,852, filed March 25, 2004, for METHOD FOR FORMING AN ORTHOPEDIC IMPLANT SURFACE CONFIGURATION in the name of Gary Karlin Michelson as indicated by the assignment duly recorded in the United States Patent and Trademark Office at Reel 016195, Frame 0282.

Assignee SDGI Holdings, Inc. further represents through its representative that to the best of assignee's knowledge and belief, title to Application Serial No. 09/921,851

and Application Serial No. 10/808,852 are in assignee, which is submitting this Terminal Disclaimer.

To obviate a double patenting rejection, SDGI Holdings, Inc. hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-identified application, Application Serial No. 09/921,851, which would extend beyond the expiration date of any patent granted on Application Serial No. 10/808,852 and hereby agrees that any patent so granted on the above-identified application, Application Serial No. 09/921,851, shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to any patent granted on Application Serial No. 10/808,852, this agreement to run with any patent granted on the above-identified application, Application Serial No. 09/921,851, and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on Application Serial No. 09/921,851 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of any patent granted on Application Serial No. 10/808,852, as presently shortened by any terminal disclaimer, in the event that any patent granted on Application Serial No. 10/808,852: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$130.00 is to be charged to Deposit Account No. 50-1068.

If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this reply, please charge the fees to our Deposit Account No. 50-1068. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

The undersigned is authorized to act on behalf of assignee SDGI Holdings, Inc.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: December 19, 2005

By: 

Thomas H. Martin

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